

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In Re:

EMANUEL GONZALEZ NIEVES  
XXX-XX-7138

Debtor(s)

Case No.: 18-07215 (MCF)

Chapter 12

**TRUSTEE'S MOTION TO DISMISS**

TO THE HONORABLE COURT:

**NOW COMES** José R. Carrión, Chapter 12 Trustee, and very respectfully alleges and prays:

1. The Trustee moves this Honorable Court for the dismissal of the captioned case for cause pursuant to 11 U.S.C. §1208(c)(6).

2. Section 1208(c) of the Bankruptcy Code [11 U.S.C. §1208 (c)(1)] provides:

**(c)** On request of a party in interest, and after notice and a hearing, the court may dismiss a case under this chapter for cause, including—

(1) ...

(2) ...

....

**(6) material default by the debtor with respect to a term of a confirmed plan;**

...

3. As of March 5, 2021, the default is equal to \$6,720.00. On March 4, 2021, the Trustee received a last payment of \$600.00 from Vaquería Suiza Dairy, Inc. (“Suiza”).

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4. The arrears were accrued because the payments received from Suiza are less than the amount proposed in the "Amended Chapter 12 Plan, Dated July 1, 2019 (Docket No. 62)"<sup>1</sup>.

5. In light of the aforesaid, there is cause for the dismissal of this case because the Debtors are in material default with respect to the terms of the confirmed plan because they are not making the payments to the Plan.

6. Therefore, the Trustee respectfully requests this Honorable Court to dismiss the captioned case.

**WHEREFORE** the Trustee respectfully prays this motion be granted and that an order dismissing the case be entered for cause pursuant to §1208(c)(6) for the reasons herein set forth without further notice or hearing.

**30 DAYS NOTICE:** The Debtor(s) and all Creditors, and Parties in Interest in this case, are hereby notified that, if debtor(s) fails to file an opposition to this motion in writing within 30 days from the date appearing in the certificate of service, infra, the Court may grant this motion, or convert the case without the need of further notice of hearing.

**NEGATIVE CERTIFICATION PURSUANT TO SECTION 201(B)(4) OF THE SERVICEMEN'S CIVIL RELIEF ACT OF 2003:** I hereby declare according to the attached certification(s), provided by the Department of Defense Manpower Data Center (DMDC), the Debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the ARMY, NAVY, or AIR FORCES of the United States of America; the National Guard; the Public Health Service or the National Oceanic and Atmospheric Administration.

**CERTIFICATE OF SERVICE:** The Chapter 13 Trustee herewith certifies that a copy of this motion has been served on the same date of this motion to: the DEBTOR(s) via regular mail, to his address of record, and her/his/their attorney, via regular mail if not a ECFS registered user, and to all Creditors and Parties in Interest, who has filed a Notice of Appearance or requested to receive notices regarding the present case, to their respective address of record.

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<sup>1</sup> Per the Plan (Docket No. 62), Debtors authorized weekly payments to the Plan of \$700.0000 from Suiza Dairy Inc. See, "Special Provisions", page 32.

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In San Juan, Puerto Rico this 5<sup>th</sup> day of March 2021.

/S/ José R. Carrión  
CHAPTER 12 TRUSTEE  
USDC-PR No. 203712

**/S/ Mayra M. Argüelles-Álvarez**  
USDC-PR No. 228304  
JOSE R. CARRIÓN-MORALES  
CHAPTER 12 TRUSTEE  
P.O. Box 9023884  
San Juan, P.R. 00902-3884  
Tel (787) 977-3535

18-07215-MCF

## CERTIFICATE OF MAILING

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail to the parties listed below:

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C/O JORGE L GONZALEZ-BURGOS  
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THE LAW OFFICES OF EDWARD W HILL  
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SAN RAFAEL COOP  
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STATE INSURANCE FUND CORPORATION  
PO BOX 365028  
SAN JUAN, PR 00936

DATED: March 05, 2021

GENESIS RIVERA

OFFICE OF THE CHAPTER 13 TRUSTEE



## Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-7138  
Birth Date:  
Last Name: GONZALEZ NIEVES  
First Name: EMANUEL  
Middle Name:  
Status As Of: Mar-05-2021  
Certificate ID: Z8HT3QN06F2XMS4

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director  
Department of Defense - Manpower Data Center  
400 Gigling Rd.  
Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.